

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.23743 of 1997

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Dated: March 7, 2007
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Between:

Ch. Surender, S/o. Balakrishnaiah, aged about
41 years, Occ: Agriculture, R/o.1-3-93, Main Road,
Metpally, Karimnagar District.

... Petitioner

And

Government of Andhra Pradesh, represented by its
Secretary, Revenue Department, at Secretariat,
Hyderabad, and others.

... Respondents

Order:

Petitioner claims to be the owner and possessor of land to an extent of Ac.0.15 gutnas in Sy.No.1315 of Metpally Village and Mandal, Karimnagar District. It is stated that originally, the father of the petitioner was shown to be possession of the said land and after his death, petitioner has been in continuous possession of the said land. His grievance is that though he has been in peaceful possession and

enjoyment of the said land, respondents are trying to evict him from the said land on the ground that the same belongs to Government. It is stated that when respondents were trying to evict the petitioner from the land in question, petitioner has filed W.P.No.1759 of 1997 before this court, which was disposed of directing respondents not to evict him without issuing notice. It is the case of the petitioner that he made representation to the respondents to allot the land in question in his favour on payment of market value.

2. Respondents have filed counter affidavit stating that the land in Sy.No.1315 is Government land adjoining the extensive *abadi* and the petitioner, who has made his private patta lands into residential plots, is claiming the land in question also, which belongs to the Government. It is stated that petitioner filed the aforesaid Writ Petition questioning the memo dated 24-01-1997, issued to him earlier, informing that the certified copies of pahanies cannot be granted as the said land belongs to the Government. It is further stated that this court disposed of the said Writ Petition not to evict the petitioner from the land in question, if he is in possession of the same, without notice to him. In this regard, it is stated that petitioner was never in possession of the land in question and since the land is in urban agglomeration, the question of assigning the land for agricultural purposes does not arise. It is stated that the same was communicated to the petitioner by memo dated 01-02-1997.

3. With regard to allotment of land in favour of the petitioner, no direction can be given. If the petitioner is claiming land in any of the welfare schemes of the Government, it is open for him to make representation to the respondents, which he did; and the same was also rejected by the respondents stating that the question of allotting

the said land for agricultural purposes does not arise since the same is located in urban agglomeration. With regard to the claim of the petitioner that he is in possession of the land in question, this court, in the earlier round of litigation, in the abovementioned Writ Petition, directed that if the petitioner is in possession of the land in question, he shall not be evicted without following due process of law. Though respondents have denied the possession of the petitioner over the land in question, but the counter affidavit is silent with regard to the entries made in the records in proof of petitioner's possession. There is also no indication that the said land was taken possession of by the respondents. As much as the Pahanies show that petitioner's father was in possession of the land in question, and also in the absence of any further proceedings for eviction of the petitioner, he cannot be deprived of the land in question without any proceedings being initiated in this regard. It is also stated that no proceedings have been initiated pursuant to the orders of this court in the aforementioned Writ Petition.

4. In these circumstances, I dispose of the Writ Petition directing the respondents not to evict the petitioner from the land in question without initiating proceedings under the A.P. Land Encroachment Act and the rules framed thereunder. No costs.

JUSTICE R. SUBHASH REDDY.

March 7, 2007

MRR

